

**House File 88 - Introduced**

HOUSE FILE 88  
BY FISHER

**A BILL FOR**

1 An Act relating to a right of subrogation by an insurer in a  
2 criminal case.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 602.8107, subsection 2, paragraph c,  
2 subparagraph (1), Code 2013, is amended to read as follows:

3 (1) Pecuniary damages as defined in section 910.1,  
4 subsection 3, payable to a victim other than an insurer.

5 Sec. 2. Section 602.8107, subsection 2, paragraph c, Code  
6 2013, is amended by adding the following new subparagraph:

7 NEW SUBPARAGRAPH. (5) Pecuniary damages as defined in  
8 section 910.1, subsection 3, payable to an insurer.

9 Sec. 3. Section 910.1, subsections 3 and 5, Code 2013, are  
10 amended to read as follows:

11 3. "*Pecuniary damages*" means all damages ~~to the extent not~~  
12 ~~paid by an insurer,~~ which a victim could recover against the  
13 offender in a civil action arising out of the same facts or  
14 event, except punitive damages and damages for pain, suffering,  
15 mental anguish, and loss of consortium. Without limitation,  
16 "*pecuniary damages*" includes damages for wrongful death and  
17 expenses incurred for psychiatric or psychological services  
18 or counseling or other counseling for the victim which became  
19 necessary as a direct result of the criminal activity.

20 5. "*Victim*" means a person who has suffered pecuniary  
21 damages as a result of the offender's criminal activities.  
22 ~~However, for purposes of this chapter, an An insurer is not~~  
23 shall be considered a victim and ~~does not have~~ has a right of  
24 subrogation. ~~The crime victim compensation program is not an~~  
25 ~~insurer for purposes of this chapter, and In addition,~~ the  
26 right of subrogation provided to the crime victim compensation  
27 program by section 915.92 does not prohibit restitution to the  
28 crime victim compensation program.

29 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
30 3, shall not apply to this Act.

31 EXPLANATION

32 This bill relates to a right of subrogation by an insurer in  
33 a criminal case.

34 The bill provides that an insurer has the right of  
35 subrogation against the perpetrator of a crime if the insurer

1 reimburses the victim as a result of the perpetrator's crime.  
2 Under the bill, an insurer may also be considered a victim of  
3 the perpetrator's crime and shall be included in the statement  
4 of pecuniary damages to victims prepared by the county attorney  
5 pursuant to Code section 910.3.

6 Current law grants the crime victim compensation fund a  
7 right of subrogation against the perpetrator of a crime but  
8 prohibits an insurer from having a right of subrogation.

9 If the perpetrator of a crime makes a restitution payment  
10 through the clerk of the district court under the bill, Code  
11 section 602.8107 specifies that the insurer be reimbursed after  
12 all other restitution and costs have been paid.

13 The bill may include a state mandate as defined in Code  
14 section 25B.3. The bill makes inapplicable Code section 25B.2,  
15 subsection 3, which would relieve a political subdivision from  
16 complying with a state mandate if funding for the cost of  
17 the state mandate is not provided or specified. Therefore,  
18 political subdivisions are required to comply with any state  
19 mandate included in the bill.